

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. 911-002
on its own motion, seeking to)
determine the surcharge for the)
Enhanced Wireless 911 Fund.)

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In the Matter of the Nebraska) Application No. 911-027
Public Service Commission on its)
own motion, to establish a) ORDER SEEKING COMMENT
funding mechanism for general)
costs associated with the)
provision of enhanced wireless) Entered: November 8, 2006
911.

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

The Nebraska Public Service Commission (Commission) hereby opens this proceeding, on its own motion, to determine whether it should establish a limited cost recovery mechanism to Public Safety Answering Points (PSAPs) for general costs associated with providing enhanced wireless 911 pursuant to Neb. Rev. Stat. § 86-465(c) (2006 Cum. Supp.) and if so, how the mechanism should be established.

The Commission has been informed in other proceedings that PSAP revenues are decreasing due to losses in access lines which they can assess through Neb. Rev. Stat. § 86-435. Some PSAPs have attempted to take steps to recover some of these losses through additional surcharges or by imposing new taxes or fees on wireless carriers. The purpose of this proceeding and the proposed cost recovery mechanism would be to take into account PSAP revenues lost which are attributable to declines in landline access lines. The cost recovery mechanism would flow to the PSAPs to assist PSAPs with the "purchase, installation, maintenance and operation of telecommunications equipment and services required for the provision of enhanced wireless 911 service." § 89-465(c).

Feasibility of a Cost Recovery Mechanism:

The Commission believes it has the authority to establish a cost recovery mechanism as detailed herein pursuant to Neb. Rev. Stat. § 86-465 (2006 Cum. Supp.). The Commission seeks comment from interested parties as to whether the Commission can or should establish a recovery mechanism for general PSAP costs associated with providing enhanced wireless 911. The Commission

seeks comments on the extent or limitations of its authority to establish a cost recovery mechanism for this purpose.

Proposed Design of the Cost Recovery Mechanism:

To date, the Commission has funded equipment costs incurred by PSAPs and carriers for the implementation of enhanced wireless 911. The Commission proposes the current mechanism for general costs incurred by the PSAP to implement and administer enhanced wireless 911. The Commission proposes one way to fund this mechanism would be through a 20 cent increase of the wireless surcharge. The fund would therefore be limited in size to the amount this surcharge increase would generate.

At this point, if a cost recovery mechanism is established, the Commission is considering limiting it to recovery for PSAP revenue lost due to wireless competition. The Commission is considering comparing historic PSAP access line data; specifically, the number of landline access lines lost due to wireless competition for each PSAP. Interested persons should comment on the Commission's proposed methodology for determining lost PSAP revenue or access lines. The Commission also seeks comment on whether the cost recovery mechanism should include an adjustment for access lines lost due to population decline.

In the event the need associated with lost access lines exceeds the total amount of funds to be expended via the proposed cost recovery mechanism, funds would be allotted to each PSAP based on relative need. The Commission seeks comment on whether a cap should be placed on the recovery mechanism and the method in which funds would be distributed should the cap be exceeded.

The Commission is also aware that some designated PSAPs have made attempts to recover costs directly from the wireless carriers through a 911 surcharge or through an occupation tax. The Commission does not believe it should provide additional cost recovery through its mechanism to a designated PSAP which has taken such steps. Accordingly, the Commission proposes that if a designated PSAP has taken steps to recover their own costs through a surcharge, fee or tax on wireless service, then said designated PSAP would be ineligible to receive cost recovery through this mechanism. The Commission seeks comments on this proposal.

In addition, some PSAPs do not assess a 911 surcharge. Also, some PSAPs are not currently assessing a landline surcharge equal to the statutory surcharge cap. The Commission proposes to exclude from the cost recovery mechanism designated

PSAPs who have not implemented the landline surcharge and those who do not assess the statutory cap.

Also, if a County is exempt from the 70 cent surcharge cap on wireless carriers established by the Legislature. The Commission proposes to exclude these counties from its cost recovery mechanism as they would not be contributing to the funding mechanism through an increase in the wireless surcharge.

If the PSAP is not considered a designated PSAP, then the proposals outlined herein would not be applicable.

The Commission further proposes that participation in the cost recovery mechanism would be optional for designated PSAPs. Participation in the cost recovery mechanism is not designed to be mandatory for designated PSAPs.

Information to be Included in a Cost Recovery Model:

The Commission staff has developed Appendix A which is attached hereto and fully incorporated herein for comment and corrections. The Commission staff based Appendix A on information filed with the Commission. Appendix A is compiled with the best information the Commission has available at this time. However, the Commission is aware there are what appear to be anomalies in portions of the data. Further, in an effort to ensure the mechanism demonstrated in Appendix A encompasses the breadth of revenue loss for all designated PSAPs, should data be missing for a particular designated PSAP, 2005 population, an access line-population factor, and a statewide average revenue lose per access line amount is utilized to derive estimated revenue loss. The Commission directs the staff to send out a data request to the PSAPs to generate a more accurate data set. Accordingly, the Commission requests PSAPs to respond to the data requests sent by the staff.

At the present time, the Commission has a proposed estimate of the size of the cost recovery mechanism which is included in Appendix A. Interested persons can comment on the estimated size of the cost recovery mechanism detailed in Appendix A.

Sufficiency of Funding:

One of the questions to be considered by the Commission in this proceeding is whether it has sufficient funds for a cost recovery mechanism such as the one proposed herein. The Commission will need to explore whether to raise the surcharge to the 70 cent cap or whether it can use existing funds for this purpose. The Commission reserves the right and ability to modify

any cost recovery mechanism established and to assign some expenses and responsibilities to the carriers or PSAPs based on funding levels.

Comments responsive to this inquiry shall be filed on or before **December 15, 2006**. Corrections or additions to Appendix A must be filed by December 15, 2006. Commenters must file five (5) paper copies along with one (1) electronic copy with the Commission.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be and it is hereby open for public comment.

IT IS FURTHER ORDERED that comments responsive to this Order be filed on or before **December 15, 2006**, in the manner prescribed herein.

MADE AND ENTERED at Lincoln, Nebraska this 8th day of November, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director